

Approved

TOWN OF WESTFORD

BOARD OF SELECTMEN

MINUTES

DATE: November 26, 2002

TIME: 7:30 P.M.

PLACE: J.V. Fletcher Library

PRESENT: Dini Healy-Coffin, Chris Romeo, Robert McCusker,
Robert Jefferies, Allan Loiselle

Open Forum

There was no input from the Board or the audience.

Public Hearing – Classification Hearing on Taxable Property

The Selectmen are required under state law to hold a public hearing prior to the establishment of tax rates for various classes of property each year. Options available to the Selectmen are: (1) a single uniform property tax rate for all classes of property; (2) a split tax rate which shifts the tax burden between Residential/Open Space properties and Commercial, Industrial, and Personal property classes; (3) a split rate which shifts the tax burden between Residential and Open Space properties; (4) a combination of Options 2 and 3. The Board may also consider granting a limited property tax exemption in the case of homes serving as primary residences. Paul Plouffe, Principal Assessor, made a presentation of the data regarding taxable properties and classifications. Healy-Coffin reported that the Board received approximately seven letters from business owners opposed to shifting the tax burden with a split rate. Scott MacKay, 7 Crown Road, owner of MacKay Hardware and member of the Tax Classification Study Committee, stated that it is hard for a small business to stay competitive when costs keep rising. MacKay pointed out that businesses do not use schools or sewers. MacKay reported that the Tax Classification Study Committee met twice but did not have enough information to bring to the Selectmen. MacKay asked that the Committee remain in place and make a recommendation to the Board next year after careful study. MacKay urged the

Board to leave the tax rate as a flat rate. The Plant Manager from Currier, 22 Town Farm Road, asked the Board to consider the flat tax rate as the split rate will put them at a disadvantage with larger corporations. Attorney Howard Hall, owner of residential, commercial and business properties, stated that he supported the single tax rate. Hall felt that the single rate encourages business to come to Westford. Hall also felt that the split rate is unfair to businesses. Hall urged the Board to maintain the single tax rate. Robert Walker, 3 Cortland Road, owner of several businesses in Westford, stated that he now pays \$500,000 in taxes on commercial properties and a shift in the tax burden would raise his taxes substantially. Walker stated that a small business cannot absorb those costs. Doug Finelli, Project Manager for Gutierrez, stated that the Board received letters from tenants of the Gutierrez properties indicating that they came to Westford because of the costs. Finelli felt that a split rate would alienate those tenants. Finelli asked the Board to maintain the single tax rate. Mark Scolnick, Webber Road, owner of residential, office and small business properties, was opposed to the split rate and urged the Board to stay with the single tax rate. Leslie Thomas, 8A Old Colony Drive, stated that one of the goals of the Master Plan Implementation Committee was to build up the town's tax base and encourage business which would help taxes for the residents by shifting the tax rate. Jim Brooks, Tax Classification Study Committee, spoke in favor of the single tax rate. Brooks asked that the Committee remain in place and make a strong recommendation next year.

It was moved by Jefferies, seconded by Loiselle, and VOTED 3 IN FAVOR WITH 2 OPPOSED (McCusker, Romeo), that the Town of Westford will tax all property classes with one rate for fiscal year 2003. Loiselle stated that he was disappointed that the Tax Committee did not get a chance to do their jobs. Loiselle liked the idea of some type of tax shift with exemptions for small businesses. Loiselle stated that the town needed to make sure that residents on a fixed income or residents not using the schools have a voice in setting the tax rate. Loiselle urged the Board to do what is best for all residents.

It was moved by Jefferies, seconded by Loiselle, and VOTED UNANIMOUSLY, that the Town of Westford will not adopt a residential exemption for fiscal year 2003.

It was moved by Jefferies, seconded by Romeo, and VOTED 3 in FAVOR WITH 2 OPPOSED (McCusker, Loiselle), that the Town of Westford will adopt a small commercial exemption for fiscal year 2003 at 10%. Jefferies stated that he has maintained for years that one of the reasons Westford is losing its character is the loss of small businesses. Jefferies felt that this was a minor shift increasing the burden slightly on larger corporations. Loiselle stated that he would like to look at small businesses and a shift in the tax rate after the Committee has completed its review. Loiselle wanted to take everything into consideration. Romeo agreed with Jefferies stating that the impact of the properties along Route 110 is enormous as to the quality of life issues for the residents. Plouffe

outlined the tax burden on the larger corporations relative to the small business exemption.

It was moved by Jefferies, seconded by Romeo, and VOTED UNANIMOUSLY, that the Town of Westford will not adopt an open space exemption for fiscal year 2003.

Storm Water Program Planning Presentation

Mark Hamel, Town Engineer, stated that this is the first in a series of public meetings regarding the EPA Phase II Storm Water Management Program. The next public meeting will be on Tuesday, December 3, 2002 at the George Rogers Fire Station. Bethany Eisenberg, Vanasse Hangen Brustlin, Inc., made a presentation of the EPA Phase II Storm Water Management Program; the Six Minimum Control Measures Required; Public education and outreach on storm water impacts; Public involvement/participation; Illicit discharge detection and elimination; Construction site runoff control; Post-construction storm water management in new development and redevelopment; Pollution prevention/ good housekeeping for municipal operations; and action items. Eisenberg stated that a Storm Water Management Plan is due in March to the State which needs to be approved by the Town. Eisenberg stated that the focus of the program is to prevent pollutants from entering the water.

Presentations by Attorney Douglas Deschenes

Overview of 12 Unit project proposal by Rosegate Development –

Attorney Douglas Deschenes was present to provide an informal overview of the proposed 40B project filed under the MA Housing Starts Program. Deschenes stated that the Board should have received a letter from MA Housing that the application has been filed. After receipt of the letter, a 30-day comment period begins. MA Housing will review the project and if they feel it is appropriate for their program, they will issue a Site Eligibility letter. The applicant can then apply to the Zoning Board of Appeals for a Comprehensive Permit. Deschenes stated that the proposed project location is 99 Main Street which currently has a commercial building and is adjacent to the Lil' Peach property. The 10,000 sq. ft. commercial building will be razed to make room for the housing units. The site contains 1.84 acres of land and .44 acres of wetlands to the rear. Deschenes showed a plan of the proposed 12 unit project (4 garden-style units and 8 townhouse units). Three of the units will be affordable in the \$160,000 range. The market rate for the remaining units will range in price from \$279,000 to \$369,000. One of the units will be handicap accessible as required by the program. Ten of the units will be 2-bedroom, 2 of the units will be 3-bedroom, all units will have 2½ bathrooms. The units range in size from 1,300 sq. ft. to 2,700 sq. ft. Each unit will have a single garage space, a single car space and one visitor space for a total of 3 spaces per unit. Deschenes showed a rendering of the building (220 feet long). The Board and Deschenes discussed the informal presentations, procedures and the comment period under the MA Housing Starts Program. The Board was concerned that the comment period

appears to come very quickly after the informal presentation is made. Healy-Coffin asked Deschenes if they had met with the neighbors regarding the Concord Road 40B project that had been informally presented to the Board in October. Deschenes stated that they were working on scheduling a meeting with the neighbors. McCusker noted that the plans for the Concord Road site did not have an accurate depiction of the number of units. Jefferies asked how the Main Street site was zoned. Deschenes stated that the site was zoned business. Jefferies was opposed to conversion of a business zone to residential. Jefferies pointed out that the town is trying to build a business base. Jefferies felt that the site was inappropriate for this type of use. Jefferies asked for data before making comments. Jefferies questioned whether the site could handle the septic for 12 units. Jefferies also wanted to see the abutting properties depicted on a plan. It was moved by Romeo, seconded by Jefferies, and VOTED UNANIMOUSLY, to direct the

Town Manager to contact Richard Herlihy, Development Director at Mass Housing who wrote the Board a letter on October 30, 2002 and ask him to extend our deadline to January 15, 2003 to allow the Board to meet again (re: Concord Road 40B project). McCusker asked that Ledoux also add that the Board did not have all of the questions answered by the developer at the time of his informal presentation and that the Board is still waiting for more information at this time. Andrea Peraner-Sweet, member of the Planning Board, felt that the Selectmen's expectations and the applicant's expectations were crossing. Peraner-Sweet suggested that it would be helpful for all the boards to meet and formalize exactly what is expected from an applicant at the time of the informal presentation. Romeo reported that the Affordable Housing Committee is putting together an educational seminar in conjunction with the Department of Community Housing and others regarding the town's rights, responsibilities and duties regarding Chapter 40B projects. Healy-Coffin stated that one of the short-term goals the Board agreed upon at its recent Annual Goal Setting was to educate the Board on 40B and develop policies and procedures. Sam Frank, Chairman of the Zoning Board of Appeals, suggested that the Board ask the applicants to not submit the letter to the State until they satisfy the Selectmen's information and requirements as a show of good faith. Robert Walker, applicant, stated that he has done everything correctly and that this informal presentation is voluntary as was the presentation to the Planning Board. Walker assured the Board that the plans are not on the fast track and that the plans and engineering are incomplete at this point. McCusker questioned the size of the project on the 1.5 acres of land. Walker stated that the entire building, including basement and garage, is 25,000 sq. ft. gross. McCusker asked Walker for the names of the principals of the LLC, the names of the builder and developer and their past history in Westford. Walker stated that it was totally inappropriate to answer those questions. Romeo pointed out that the names are pertinent to other boards. Deschenes stated that part of the application process with the Zoning Board of Appeals will be to provide the names of the development team, engineers, attorneys, and developers. Walker stated that he has developed Primrose Park, Next Generation Children's Center on Powers Road, Nashoba Brook Road on Littleton

Road and his own house on Cortland Road. Tony Martinez, 95 Main Street, abutter, stated that he supports affordable housing, but was concerned with what was being inaccurately presented and the attitude of the proponent. Martinez stated that the property is zoned 80% business and 20% residential pursuant to the field property card obtained from the Assessors. Martinez also stated that Rosegate Development was formed as an LLC not a Limited Distribution Company as stated by Deschenes. Martinez provided the Articles of Incorporation to the Board. Martinez was concerned with impacts to his property relative to drainage and his leaching field. Martinez reported that a hole was dug on the site today and a pipe was installed that will be looked at in the spring. Deschenes explained that Rosegate LLC is a limited liability company and that there is not a limited dividend company at the State level. MA Housing Starts limits a developer's return on a project under a limited dividend company. Jefferies stated that he would like to know the financial wherewithal of the corporation to accomplish this project and the technical expertise and past history, specifically of housing development and affordable housing development, by the principals. Jefferies asked if the developer explored the possibility of a mixed use on the site. Jefferies felt that the amount of paving seemed to be excessive. Romeo asked if the developer had considered a rental structure so that all 12 units could be considered affordable. Deschenes stated that his

client does not want to develop a rental project and that the neighbors usually prefer ownership versus rental properties. Sandy Martinez, 95 Main Street, abutter, stated that she has lived in Westford for 30 years and found out about this project in the newspapers. Dennis Keris, 100 Main Street, stated that he was in favor of affordable housing. Keris asked that the boards think about the water on the site and what this project will generate. Keris believed that people in the area would probably support the project if it is done correctly and that there is good communication.

Proposed LIP Project, 211 Groton Road

Attorney Douglas Deschenes, representing the owners of the property at 211 Groton Road, currently the site of Rancho De Amigos Restaurant, stated that his clients are interested in developing the site as an affordable housing project under Chapter 40B as a Local Initiative Project (LIP). Deschenes asked if the Board would be interested in working together with his client and file a joint application to the Department of Housing and Community Development. Jefferies felt that this was the preferred method relative to these types of projects. Jefferies was concerned with converting a business property to residential and suggested looking at some type of mixed use. Romeo asked if the Board would like the Affordable Housing Committee to make a recommendation after review of the project as to whether it would be in the best interest of the Town to enter into a partnership. The Board concurred. Deschenes to meet with the Affordable Housing Committee on December 11th.

Discussion of Public Health Nuisance, 25 Keyes Road

An attorney representing the Connells was present to address concerns of the neighbors regarding the recent accident involving the discharge of animal waste compost. The attorney stated that the farm has been in operation for 40 years under the guidelines of the Department of Agriculture and during that time there has never been an accident of any kind. The spill was not caused by the Connells but rather by an independent contractor on the site doing composting when the berm broke. The Connells have undertaken the responsibility of the clean up and are continuing to work cooperatively with the Board of Health and the Conservation Commission. The Connells have hired environmental consultants, clean up crews, engineers, and surveyors. The clean up is proceeding. The attorney stated that at the Board of Health hearing last night, they continued to hear about the existence of the farm itself from the neighbors. Brian Lemay, 74 Dunstable Road, felt it was unfortunate to have an accident occur in order to raise concerns at the farm. Lemay asked if the town knew what was permitted on the farm and whether anyone monitored what was going on. Loiselle stated that on the night of the spill he spoke to John Garside, Director of Environmental Services, and was informed that Garside went to the farm twice and that the Department of Agricultural did an inspection during the summer. Lemay invited the Board to drive over to his house and smell the odors from the farm. Lemay stated that it was insulting to downplay the pig odors. Lemay stated that the odors come through closed windows and doors constantly. Lemay stated that the manure sits in an open concrete bin. Lemay questioned the long-term effects of the accident. Lemay also asked if the Board of Health

or the Selectmen have considered fining the Connells. Rick McNeil, 48 Dunstable Road, stated that he has tolerated the farm for 20 years. McNeil was concerned with the 25'x90' lagoon of swill which generates the smell. McNeil noted that this would not be allowed under Title 5. Lemay stated that he was not informed of the pig farm when he moved here five years ago. Lemay pointed out that the Town has changed and perhaps it was time that the Town re-evaluated what was going on. Resa Pratt, 17 Beatrice Road, stated that had she known about the farm she would not have moved there. Pratt was concerned with the clean up of the spill. Pratt felt that everyone should work together for the best interests of all residents in Westford. Pratt also felt that there were many unanswered questions. Pratt was concerned with the wells and Long Sought For Pond. Pratt stated that there are 11 drains down Dunstable Road leading to the pond. Pratt stated that problems existed before the spill and monitoring needed to be done. Pratt stated that the pond association and other residents have done research and asked EPA for help prior to this accident relative to runoff issues. Romeo commended Loiselle for directing a highway worker to build a berm on the night of the spill so that it would not reach the pond. Loiselle asked that the Connells keep the neighbors informed.

Mass Historic Grant – Roudenbush Community Center

Glen Townsend, Roudenbush Community Center Committee Chairman, was present seeking support from the Board to pursue an application for the Massachusetts Historic Commission Grant Round IX, to be submitted by December 5th. Townsend stated that the Roudenbush received \$100,000 from the Community Preservation Act and is looking to match the funds from the State. The Roudenbush Committee voted tonight to put in an application for the grant. A preservation restriction would be required for the exterior of the building in perpetuity. Ken Tebbetts, Historical Commission, outlined the preservation restriction requirements. Jefferies cautioned that the restriction could constrain how the inside of the building is used. Tebbetts stated that State will do a review of the major work. It was moved by McCusker, seconded by Romeo, and VOTED UNANIMOUSLY, to support the grant for Roudenbush Community Center.

Discussion of Cell Tower Planning Study with Sam Frank

Sam Frank, Chairman of the Zoning Board of Appeals, reported that the Planning Board voted on November 4th to expend up to \$5,000 for a Cell Tower Site Planning Study. Frank stated that the RFP needs to be prepared and issued. Frank also recommended that a small subcommittee be formed to work with the consultant. It was moved by Jefferies, seconded by Romeo, and VOTED UNANIMOUSLY, to authorize Steve Ledoux to prepare the RFP and form a subcommittee to work with the consultant in the future.

Discussion of Use of Town Common

Ellen Harde, 39 Main Street, asked that the Common Restoration Committee under the Historic Commission be invited to the discussion. Due to time constraints, this discussion was deferred to a future meeting.

Licenses and Permits

Auctioneer License – Oriental Rugs Auction – Custom Liquidators of America, d/b/a Newton Oriental Rugs, Franco American Club, 55 West Prescott Street, January 1, 2003, 10:00 – 6:00 p.m. –

Auctioneers Mike Sokolowski and Itzhak Levi – It was moved by Romeo, seconded by Jefferies, and VOTED UNANIMOUSLY, to approve.

One Day Wine/Malt License – John Baresh Christening at St. Catherine’s Parish Center on December 15, 2002 from 2:00 p.m. – 6:00 p.m. – It was moved by Romeo, seconded by Jefferies, and VOTED UNANIMOUSLY, to approve.

Use of the Town Common – Wedding – June 29, 2003, Steven C. Boudreau – It was moved by Loiselle, seconded by Romeo, and VOTED UNANIMOUSLY, to allow the use of the Town Common, non-exclusively.

Franklin Property

No report at this time.

Minutes

It was moved by McCusker, seconded by Romeo, and VOTED 4 IN FAVOR WITH 1 ABSTAINING (Loiselle), to approve the minutes of October 8, 2002 (regular session).

Old Business/New Business

Hiring Freeze Request – 5 Police Officers – Ledoux referenced a letter from Labor Counsel regarding the obligation to fill 40 Police officer positions under the “COPS” Grant Program. Robert Welch, Police Chief, reported that there are currently five openings to be filled which would bring the total to forty. Welch also reported that two additional officers will be retiring as of December 31, 2002 and possibility another officer going to the State Police. Romeo asked Welch to provide him with the crime statistics prior to the hiring of the 13 officers under the “COPS” Grant to present. Welch stated that two police dispatchers may be promoted to permanent officers in which case there will be the need to fill the dispatcher positions. It was moved by Romeo, seconded by Jefferies, and VOTED 4 IN FAVOR WITH 1 ABSTAINING (McCusker), to authorize this exception to the hiring freeze for the five officers to maintain the level of forty in compliance with the “COPS” Program and maintain the number of dispatchers.

Cemetery Superintendent and Highway Foreman – Ledoux recommended approval of these positions. It was moved by McCusker, seconded by Romeo, and VOTED UNANIMOUSLY, to lift the hiring freeze for the Cemetery Superintendent and one Highway worker.

Fireworks Policy – Request for Fireworks on December 31, 2002 – Ledoux reported that the Fire Department has received a request from Atlas Pyrovision for a New Year’s Eve fireworks display at the Nashoba Ski Area, midnight – It was moved by Jefferies, seconded by Romeo, and VOTED UNANIMOUSLY, to approve.

Resignation of Judy Ramirez, Senior Tax Relief Committee – Ledoux to send letter of appreciation.

Connell Drive Parking – Ledoux reported that “No Parking” signs have been installed on Connell Drive. The Police Department will continue to monitor the situation. Healy-Coffin suggested that some sensitivity is needed relative to spill over parking during funerals. The Board to discuss Connell Drive during the Town Common discussion.

Brookside Mill – McCusker requested that Ledoux provide a status update at the next meeting.

Correspondence

11.1 Stony Brook Center Cote Well Contamination Risks – Ledoux to schedule discussion at future meeting. Ledoux to send letter to Permanent School Building Committee for a report.

11.9 Letter of Resignation – Cliff Rockwood from Recreation Committee – Ledoux to send letter of appreciation.

Open Items

11/26-1 Ledoux to prepare RFP for Cell Tower Planning Study.

11/26-2 Subcommittee to be appointed by Ledoux to work with consultant re: Cell Tower Planning Study.

11/26-3 Ledoux to send letter of appreciation to Judy Ramirez re: resignation from Senior Tax Relief Committee.

11/26-4 The Board to discuss the use of the Town Common and parking on Connell Drive at a future meeting.

11/26-5 The Board to discuss Stony Brook Center Cote Well contamination risks at future meeting (re: Corr. 11.1).

11/26-6 Ledoux to send letter to Permanent School Building Committee for report re: Stony Brook Center Cote Well contamination risks (re: Corr. 11.1).

11/26-7 Ledoux to send letter of appreciation to Cliff Rockwood re: resignation from Recreation.

11/26-8 Ledoux to provide status report on Brookside Mill at next meeting.

Adjournment

It was moved by Jefferies, seconded by Loiselle, and VOTED UNANIMOUSLY, to adjourn the meeting.

